

SAN PATRICIO COUNTY

IBLA 81-293

Decided December 31, 1981

Appeal from decision of the New Mexico State Office, Bureau of Land Management rejecting application for conveyance of mineral interest. NM-A 40562 (Texas) 2720.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Reservation and Conveyance of Mineral Interests

Under sec. 209 of FLPMA, 43 U.S.C. 1719 (1976), the Secretary may convey mineral interests only where there are no known mineral values in the land, or where the reservation of mineral rights would interfere with or preclude appropriate non-mineral development of the land which would be a more beneficial use of the land than mineral development. Where the land contains a producing oil well and there is no showing that the reservation is interfering with or precluding nonmineral development which is a more beneficial use of the land than mineral development, an application for conveyance is properly rejected.

APPEARANCES: Percy A. Hartman, County Judge, San Patricio County, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

San Patricio County, Texas, appeals a decision dated December 17, 1980, by the New Mexico Office, Bureau of Land Management (BLM), rejecting its application for conveyance of mineral interest.

Appellant filed its application NM-A 40562 (Texas) on April 7, 1980, pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1719 (1976). Appellant sought

to acquire the Federal mineral interests underlying its recently purchased property, described in the application as:

All of tracts Fifteen (15) and Sixteen (16) of the Northeast quarter (NE/4) of Section Twenty-five (25) of the George H. Paul Subdivision of the Coleman Fulton Pasture Co.'s Lands of San Patricio County, Texas, as shown by the Map or Plat of the same record in Vol. 1, page 27 of the Map Records of San Patricio County, Texas, and containing twenty acres, more or less.

The decision appealed rejected the application as follows:

The records indicate that the above-described tracts are included in federal (competitive) oil and gas lease NM-A 8757 (Texas) issued March 1, 1969 to Neil E. Hanson, 1234 Americana Building, Houston, Texas 77002. This lease has been producing oil for several years and is continuing to produce in excess of 90 barrels of oil a month.

Furthermore, these lands have excellent potential for additional production of oil and gas from several other zones. Therefore, the lands in the application have very high mineral values, and it is not in the best interest of the United States to convey the minerals at this time.

Application for Conveyance of Federally Owned Mineral Interests NM-A 40562 (Texas) is hereby rejected because the lands have high mineral values and there is no showing that surface development is a more beneficial use of the land than its mineral development (43 CFR 2720.1-2 (4)).

43 CFR 2720.1-2(4) requires an applicant to file:

(4) As complete a statement as possible concerning (i) the nature of Federally-reserved or owned mineral values in the land, including explanatory information, (ii) the existing and proposed uses of the land, (iii) why the reservation of the mineral interests in the United States is interfering with or precluding appropriate non-mineral development of the land covered by the application, (iv) how and why such development would be a more beneficial use of the land than its mineral development, and (v) a showing that the proposed use complies or will comply with State and local zoning and/or planning requirements. [1]

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1/ The regulations at subpart 2720, conveyance of Federally-owned mineral interests, were published in the Federal Register at 44 FR 1342 (Jan. 4, 1979).

In the statement of reasons appellant asserts:

[BLM owns] the minerals under some 100 acres, and there is a producing well on the property covered by the March 1, 1969 lease. The producing well is not located on the property purchased by San Patricio County.

The minerals under the 20 acres is pooled with [BLM's] other land. There is no reason why you should ever drill a second well on the property covered by the March 1, 1969 lease as the present well is adequate to produce all oil and gas from the pooled property.

Appellant further states that it intends to annex the 20 acres to the city of Sinton, Texas; that a city ordinance would not permit drilling a new well; and that the land might be improved for park purposes.

[1] Section 209 of FLPMA, 43 U.S.C. § 1719 (1976) provides in pertinent part as follows:

§ 1719. Mineral interests; reservation and conveyance requirements and procedures

(a) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 1716 of this title, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that if the Secretary makes the findings specified in subsection (b) of this section, the minerals may then be conveyed together with the surface to the prospective surface owner as provided in subsection (b) of this section.

(b) (1) The Secretary, after consultation with the appropriate department or agency head, may convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, regardless of which Federal entity may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate non-mineral development of the land and that such development is a more beneficial use of the land than mineral development.

Under this provision the Secretary is authorized to convey reserved Federal mineral interests to the owner of the surface estate for fair market value in either of two situations: where there are no known minerals, or where the reservation interferes with a more valuable surface development. David D. Plater, 55 IBLA 296 (1981); see also 43 CFR 2720.0-2.

In the case before us, neither of these circumstances is present. Since there is a producing well on the lease, there is no issue as to mineral values as that term is defined in the regulations. 2/ Moreover, appellant has made no assertions which could be construed as a showing that the reservation interferes with a more valuable surface development. We conclude that under FLPMA and the pertinent regulations, the application for conveyance of mineral interests was properly rejected.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Anne Poindexter Lewis  
Administrative Law Judge

We concur:

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Bruce R. Harris  
Administrative Judge

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Edward W. Stuebing  
Administrative Judge

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2/ "Known mineral values" are defined as "mineral values in lands with underlying geologic formations which are valuable for prospecting for, developing or producing natural mineral deposits. The presence of such mineral deposits in the lands may be known, or geologic conditions may be such as to make the lands prospectively valuable for mineral occurrence." 43 CFR 2027.05(b)).

